

**MINUTES
OF
THE UTAH RADIATION CONTROL BOARD**

January 13, 2009

Department of Environmental Quality, DEQ Building #2

Conference Room 101

168 N 1950 W

Salt Lake City, Utah 84114-4850

BOARD MEMBERS PRESENT

Peter A. Jenkins, M.S., CHP, Chair
Elizabeth Goryunova, M.S., Vice Chair
Dane L. Finerfrock, Executive Secretary
Scott Bird
Patrick D. Cone
Christian K. Gardner
Edd C. Johnson
Douglas S. Kimball, DMD
William J. Sinclair, Acting Executive Director
John W. Thomson, M.D.
David A. Tripp, Ph.D.

BOARD MEMBERS ABSENT/EXCUSED

Frank D. DeRosso, MSPH, C.I.H.
Joseph K. Miner, M.D., MSPH

**DRC STAFF/OTHER DEQ MEMBERS
PRESENT**

Kevin Carney, DRC Staff
David Esser, DRC Staff
Philip Goble, DRC Staff
John Hultquist, DRC Section Manager
Ryan Johnson, DRC Staff
Craig Jones, DRC Section Manager
Christine Keyser, DRC Staff
Laura Lockhart, Attorney General's Office
Loren Morton, DRC Section Manager
Yoli Necochea, DRC Staff
Fred Nelson, Attorney General's Office
Raymond Nelson, DRC Staff
Sonja Robinson, DRC Staff

DRC STAFF/OTHER DEQ MEMBERS

PRESENT- Continue

Donna Spangler, PPL

PUBLIC

Judy Fahys, Salt Lake Tribune
Lewis Francis, Attorney, Representing
CME
Craig Galli, Holland and Hart
Charles Judd, Cedar Mountain
Environmental, Inc. (CME)
Mark Ledoux, EnergySolutions
Romaine Marshall, Holland and Hart
Sean McCandles, EnergySolutions
Treesa Parker, EnergySolutions
Tye Rogers, EnergySolutions
Daniel Shrum, EnergySolutions
Christopher Thomas, HEAL-Utah

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ), Conference Room 101, 168 North 1950 West, DEQ Bldg. 2, Salt Lake City, Utah. Peter A. Jenkins, Chair, called the meeting to order at 2:34 p.m. He welcomed the Board Members and the public and proceeded with the Board meeting.

This meeting was recorded and transcribed by Kelly Fine-Jensen, RPR from CitiCourt Recording Services. The final transcribe minutes by Ms. Fine-Jensen will be used as the final minutes for this recorded meeting. Attached are the transcribed minutes that Kelly Fine-Jensen, RPR transcribed by verbatim.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of the Minutes from December 9, 2008 Board Meeting

Peter A. Jenkins, Chair, asked the Board for corrections to the minutes from December 9, 2008. There were no corrections to the minutes.

MOTION MADE BY WILLIAM J. SINCLAIR TO APPROVE THE MINUTES AS WRITTEN

MOTION SECONDED BY CHRISTIAN K. GARDNER

MOTION CARRIED AND PASSED UNANIMOUSLY

II. RULES No Items

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION No Items

V. RADIOACTIVE WASTE (Board Action Item)

a. Consideration of Charles Judd's and Cedar Mountain Environmental, Inc.'s (CME) Petition to Intervene in EnergySolutions' License Renewal, Including Consideration of EnergySolutions' October 23, 2008, Motion to Dismiss

William J. Sinclair, Acting Executive Director, informed the Board that he would like to recuse himself from the proceeding. He read the following statement and gave Dane L. Finerfrock, Executive Secretary, an original signed letter of his statement for the Board record. The following is the statement Mr. Sinclair read to the Board:

January 13, 2008

Peter A. Jenkins, Chairman
Utah Radiation Control Board

Mr. Chairman:

I need to recuse myself from this proceeding. I will not participate nor will I vote on the matter regarding the consideration of Charles Judd's and Cedar Mountain Environmental Inc. (CME) petition to intervene in EnergySolutions' License Renewal. Prior to the decision to appeal the license renewal by the Executive Secretary, I met with Mr. Judd in capacity as Deputy Director of the Department at his request. During the meetings, we discussed many of the points that are part of the record of this proceeding. I believe because of these communications, it is inappropriate for me to participate in the proceeding. As such, I am going to remove myself from the table and sit myself in the audience to observe the proceedings.

Sincerely,

William J. Sinclair
Acting Executive Director

(Mr. Sinclair's original signed letter is in the Board file)

After reading this statement William J. Sinclair, Acting Executive Director, removed himself from the Board and went and sat among the audience.

Christian K. Gardner, Board Member, informed the Board that he also wanted to make a disclosure statement. Mr. Gardner informed the Board that he was currently an owner of a real estate developing company. He said that a person in his company approached Mr. Steve Cramer, President of EnergySolutions, about possibly buying a few lots that Mr. Gardner has in his company. Mr. Gardner said that this was as far as the conversation had taken place with Mr. Cramer and that it had not progress or gone further than possibly Mr. Cramer having an interest in buying the lots. Mr. Gardner said that he did not think this action should falter his upcoming vote on the appeal process, but that he thought he should disclose this information to the Board before the upcoming vote.

Peter Jenkins, Chair informed the Board that he was going to allow each party thirty minutes to present their summary arguments on the appeal to the Board. Fred Nelson, asked the Board to leave their questioning to the parties until they were completely finished presenting their appeal so, each party could present a full thirty minute appeal. The following parties presented their appeal to the Board in this order:

- (1) Craig Galli, Attorney, Holland and Hart, Representing EnergySolutions'
- (2) Lewis Francis, Attorney, Representing Cedar Mountain Environmental, Inc.
- (3) Laura Lockhart, Attorney, Representing the Executive Secretary, Dane Finerfrock

MOTION MADE BY EDD C. JOHNSON THAT THE BOARD GRANT ENERGYSOLUTIONS' MOTION TO DISMISS THE PETITION TO INTERVENE BY CEDAR MOUNTAIN ENVIRONMENTAL INC

MOTION SECONDED BY JOHN W. THOMSON

Peter A. Jenkins, Chair, requested a roll-call vote from the Board Members:

Peter A. Jenkins, Chair, Abstained
Elizabeth Goryunovo, Vice Chair, Yes
Scott Bird, Yes
Patrick D. Cone, No
Christian K. Gardner, Yes
Edd C. Johnson, Yes
Douglas S. Kimball, Yes
John W. Thomson, Yes
David A. Tripp, Yes
William J. Sinclair, Acting Executive Director, recused from vote

MOTION CARRIED AND PASSED

Fred Nelson, Attorney Explains the Next Step In the Appeal Process:

Fred Nelson, Attorney, explained to the Board and the parties involved the next step in the appeal process. Mr. Nelson said that they needed to have something in writing before the order would be considered final. He said that the 30-days for appealing did not run until the Board had issued its final written decision.

Mr. Nelson explained to the Board that he would gather all the comments that had been made during the appeal that led to the basis of the Board's final decision. He said he would put the contents together in written form and then bring it back to the Board for their approval at the next meeting in February, 2009. He said when the written statement is finally approved by the Board and then submitted as the final order; this is when the appeal time begins to run for the party that will contest it. But, there is an opportunity to request reconsideration by the parties within 20 days of the day that final order is issued.

Mr. Nelson explained that he would solicit suggestions from the parties on how the order should read. He said he would review this information and then come back to the Board with what he believed the Board would agree

with and then present this to the Board. It would then be distributed to Board for their review and if the Board had changes or suggestions at this time they would be incorporated and written in the final order and submitted with the Board's approval.

Mr. Nelson said the parties involved could then appeal the dismissal and the contents mentioned on the appeal could then be addressed by Mr. Charles Judd or by Cedar Mountain Environmental, Inc. (CME). Mr. Nelson said that once the final appeal was submitted the parties involved would have 20 days to reconsider and appeal the Board's decision.

A COPY OF THE OFFICIAL TRANSCRIPT IS ATTACHED AS A PART OF THE MINUTES.

VI. URANIUM MILL TAILINGS UPDATE

No Items

VII. OTHER DIVISION ISSUES

No Items

VIII. PUBLIC COMMENT

No Items

IX. The Next Scheduled Board Meeting: February 10, 2009 (Tuesday), DEQ Bldg #2, Conference Room 101, 168 North 1950 West, Salt Lake City, Utah 3:00 – 5:00 P.M.

THE BOARD MEETING ADJOURNED AT 4:49 P.M.